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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	CFL LICENSE NO.: 603-I315
)	
THE COMMISSIONER OF BUSINESS)	DESIST AND REFRAIN ORDER PURSUANT
OVERSIGHT,)	TO FINANCIAL CODE SECTION 22712; and
)	
Complainant,)	CITATION PURSUANT TO FINANCIAL
)	CODE SECTION 22707.5
v.)	
)	
OPENROAD LENDING, LLC,)	
)	
Respondent.)	

The Complainant is informed and believes and based upon such information and belief, alleges and charges the Respondent as follows:

I.
Introduction

1. OpenRoad Lending, LLC (OpenRoad) is a Texas limited liability company originally licensed as a California finance lender on October 13, 2010 pursuant to the California

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1 Financing Law¹ (Fin. Code, § 22000 *et seq.*) (CFL). On or around November 15, 2017,
2 OpenRoad’s CFL license was amended to include authority to act as a broker under the CFL.

3 2. OpenRoad has a principal place of business located at 5555 North Beach Street,
4 Suite 4100, Fort Worth, Texas 76137. OpenRoad also maintains a website on the internet at
5 www.openroadlending.com.

6 3. The Department of Business Oversight (Department), through the Commissioner,
7 has jurisdiction over the licensing and regulation of entities engaged in the business of lending and
8 servicing in the State of California pursuant to the CFL.

9 **II.**
10 **Regulatory Examination**

11 4. On or around March 23, 2016, the Department commenced a regulatory examination
12 of OpenRoad pursuant to Financial Code section 22701.

13 5. On or around October 23, 2018, OpenRoad disclosed that from in or around August
14 2016 through in or around March 2018, OpenRoad compensated at least one unlicensed person or
15 company who was not regularly employed at OpenRoad’s licensed place of business for soliciting
16 applications for loans, in violation of California Code of Regulations, title 10, section 1451,
17 subsection (c), as further described below:

18 a. On or around March 18, 2016, OpenRoad and a company that was neither
19 licensed nor regularly employed at OpenRoad’s licensed place of business (Company)² entered into
20 an “Amended and Restated Financial Services Agreement” (Amended Agreement). The Amended
21 Agreement provided that OpenRoad would compensate the Company a fee for each funded loan
22 obtained when a customer submitted an “Application” via the Company’s website or any related
23 landing pages. “Application” meant a request for an extension of credit for an OpenRoad loan
24 product that is completed and submitted by a customer to OpenRoad for review.

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27 ¹ Effective October 4, 2017, the name of the “California Finance Lenders Law” changed to the “California Financing
28 Law.” (Assem. Bill No. 1284 (2017-2018 Reg. Sess.) § 4.) For purposes of this document, a reference to the California
Financing Law means the California Finance Lenders Law before October 4, 2017 and the California Financing Law on
and after that date. (Fin. Code, § 22000.)

² Subsequent to the acts alleged herein, on or around September 24, 2018, the Company obtained a license to engage in
the business of a finance lender and broker and is currently licensed under the CFL.

1 b. The Amended Agreement provided that the Company may offer OpenRoad's
2 loan products through the "Pre-Qualification Process," which gave customers the opportunity to
3 submit certain "Customer Data" to OpenRoad via the Company's website so that OpenRoad may
4 determine if they were pre-qualified for an automobile purchase or refinancing loan. "Customer
5 Data" meant information about a customer who visited the Company's website.

6 c. The Amended Agreement also provided that the Company may offer
7 OpenRoad's loan products through the "QuickApply Interface," which contained a fillable
8 application form displayed on the Company's website. The Amended Agreement stated, in relevant
9 part:

10 OpenRoad will provide Company with the fillable information fields
11 required to be presented to Company Customers via the QuickApply
12 Interface . . . Company Customers who wish to submit their Customer
13 Data via the QuickApply Interface will complete the necessary fields and
14 the Company will then transmit the Application information collected via
15 the QuickApply Interface to OpenRoad. OpenRoad will respond directly
16 to the Company Customer with a decision to grant or deny credit

17 d. Both the Pre-Qualification Process and the QuickApply Interface enabled
18 OpenRoad to receive the following Customer Data via the Company's website: name, social
19 security number, address, birthdate, annual income, and vehicle information, including make,
20 model, year, and mileage.

21 e. In or around August 24, 2016 through in or around February 15, 2017,
22 OpenRoad compensated the Company \$260.00 per funded loan for approximately 48 funded loans
23 to California customers whose Customer Data the Company obtained through the QuickApply
24 Interface.

25 f. In or around June 13, 2017 through in or around March 13, 2018, OpenRoad
26 compensated the Company \$260.00 per funded loan for approximately 16 funded loans to
27 California customers whose Customer Data the Company obtained through the Pre-Qualification
28 Process.

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III.
Desist and Refrain Order

6. The Commissioner is authorized to pursue administrative actions and remedies against persons and licensees who engage in violations of the CFL.

7. California Code of Regulations, title 10, section 1451, subsection (c) provides in relevant part:

No finance company shall pay any compensation to an unlicensed person or company for soliciting or accepting applications for loans, except for an employee regularly employed at a licensed place of business of the finance company

8. Financial Code section 22712, subdivision (a) provides in relevant part:

Whenever, in the opinion of the commissioner, . . . any licensee violates any provision of this division, any provision of an order, or any regulation adopted pursuant to this division, the commissioner may order that person or licensee to desist and to refrain from engaging in the business or further continuing that violation. If, within 30 days after the order is served, a written request for a hearing is filed and no hearing is held within 30 days thereafter, the order is rescinded

9. Based on the foregoing, the Commissioner of Business Oversight is of the opinion that OpenRoad Lending, LLC violated California Code of Regulations, title 10, section 1451, subsection (c). Pursuant to Financial Code section 22712, OpenRoad Lending, LLC is hereby ordered to desist and refrain from violating California Code of Regulations, title 10, section 1451, subsection (c).

10. This Order is necessary, in the public interest, for the protection of investors and consistent with the purposes, policies, and provisions of the California Financing Law. This Order shall remain in full force and effect until further order of the Commissioner.

IV.
Citation

11. For the CFL violations of OpenRoad Lending, LLC, the Commissioner herein issues the following Citation:

1 From in or around August 2016 through in or around March 2018, OpenRoad compensated
2 at least one unlicensed person or company who was not an employee regularly employed at
3 OpenRoad's licensed place of business for soliciting or accepting applications for loans, in violation
4 of California Code of Regulations, title 10, section 1451, subsection (c).

5 12. Financial Code section 22707.5 provides:

6 (a) If, upon inspection, examination, or investigation, the commissioner
7 has cause to believe that a licensee or other person is violating any
8 provision of this division or any rule or order thereunder, the
9 commissioner or his or her designee, may issue a citation to the licensee
10 or person in writing, describing with particularity the basis of the citation.
11 Each citation may contain an order to correct the violation or violations
12 identified and provide a reasonable time period or periods by which the
13 violation or violations must be corrected. In addition, each citation may
14 assess an administrative fine not to exceed two thousand five hundred
15 dollars (\$2,500) that shall be deposited in the State Corporations Fund. In
16 assessing a fine, the commissioner shall give due consideration to the
17 appropriateness of the amount of the fine with respect to factors including
18 the gravity of the violation, the good faith of the person or licensees cited,
19 and the history of previous violations. A citation issued or a fine assessed
20 pursuant to this section, while constituting punishment for a violation of
21 law, shall be in lieu of other administrative discipline by the
22 commissioner for the offense or offenses cited, and the citation and fine
23 payment thereof by a licensee shall not be reported as disciplinary action
24 taken by the commissioner.

25 (b) Notwithstanding subdivision (a), nothing in this section shall prevent
26 the commissioner from issuing an order to desist and refrain from
27 engaging in a specific business or activity or activities, or an order to
28 suspend all business operations to a person or licensee who is engaged in
or who has engaged in continued or repeated violations of this division.
In any of these circumstances, the sanctions authorized under this section
shall be separate from, and in addition to, all other administrative, civil,
or criminal remedies.

(c) If, within 30 days from the receipt of the citation, the licensee or
person cited fails to notify the department that he or she intends to
request a hearing as described in subdivision (d), the citation shall be
deemed final.

(d) Any hearing under this section shall be conducted in accordance with
Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
Title 2 of the Government Code.

(e) After the exhaustion of the review procedures provided for in this section, the commissioner may apply to the appropriate superior court for a judgment in the amount of the administrative fine and an order compelling the cited licensee or person to comply with the order of the commissioner. The application, which shall include a certified copy of the final order of the commissioner, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

13. Pursuant to Financial Code section 22707.5, OpenRoad Lending, LLC is hereby ordered to pay the Commissioner an administrative penalty of \$2,500.00 within 30 days from the date of this citation. The penalty shall be made payable in the form of a cashier's check or Automated Clearing House deposit to the "Department of Business Oversight," and transmitted to: Accounting – Enforcement Division, Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814, contemporaneously with notice of transmittal to Sophia C. Kim at Sophia.Kim@dbo.ca.gov.

Dated: October 29, 2018

Los Angeles, California

JAN LYNN OWEN

Commissioner of Business Oversight

By _____

MARY ANN SMITH

Deputy Commissioner

Enforcement Division